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UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

GARY E. WNEK AND SCOTT G. EHRENBERG,
Junior Party
(Patent No. 6,413,298),

v.

GREGORY M. DOBBS AND JAMES D. FREIHAUT
Senior Party
(Application No. 10/608,809).

Patent Interference No. 105,470 (MPT)
(Technology Center 1700)

Judgment – Preliminary Motions - Bd. R. 127

Before RICHARD E. SCHAFER, MICHAEL P. TIERNEY, and
JAMES T. MOORE, *Administrative Patent Judges*.

TIERNEY, *Administrative Patent Judge*.

The Board has entered a Decision on Motions in this interference.
(Paper 70). Dobbs provoked the present interference with Wnek's '298
patent by requesting that the Board declare an interference between Wnek's
'298 patent claims and Dobbs' claims 37-59, which were specifically added
to Dobbs' involved '809 application in order to provoke the interference.
(See, e.g., Dobbs' Preliminary Amendment filed June 27, 2003 and Dobbs'

1 Amendment and Response filed February 22, 2005). As discussed in the
2 Decision, all of Dobbs involved claims are unpatentable for lack of
3 sufficient written description. Under the facts of this case, Dobbs' lack of
4 written description under 35 U.S.C. § 112, 1st paragraph represents a
5 threshold issue. 37 C.F.R. § 41.201. Accordingly, judgment on priority of
6 invention is awarded against Dobbs.

7 It is:

8 **ORDERED** that judgment be entered against senior party Dobbs for
9 Count 1, the sole count in interference. (Paper 1, p. 4).

10 **FURTHER ORDERED** that claims 37-59 of Dobbs' involved '809
11 application be FINALLY REFUSED, 35 U.S.C. § 135(a).

12 **FURTHER ORDERED** that a copy of this judgment be entered in
13 the administrative records of the involved Dobbs '809 application and
14 involved Wnek '298 patent.

15

16 /Richard E. Schafer/)
 RICHARD E. SCHAFER)
 Administrative Patent Judge)
) BOARD OF PATENT
)
 /Michael P. Tierney/) APPEALS AND
 MICHAEL P. TIERNEY)
 Administrative Patent Judge)
) INTERFERENCES
)
 /James T. Moore /)
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